

REMARKS

Claims 1, 3, 5 and 8-11 are presented for examination.

Claim Rejections under 35 U.S.C. § 102

The Office action rejects claims 1-7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0148167 (Sugawara).

Applicant respectfully submits that the Office action's rejection is improper because the Sugawara reference is not prior art with respect to the pending claims. The present application has an effective filing date of October 29, 2002 because it claims priority of its Japanese counterpart. The Sugawara reference, however, was not filed in the United States until November 8, 2002. Accordingly, this rejection should be withdrawn.

A certified translation of the priority document (JP 2002-314148) for the pending application is enclosed.

The Office action also rejects claims 1-3 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0136942 (Kashiwagi). Claim 1 has been amended to recite an "isolation valve" in the "hydrogen off-gas bypass" "for checking back flow of the hydrogen off-gas," as previously recited in claims 2 and 4 (now canceled). As the Office action states in its discussion of claim 4, "Kashiwagi . . . does not teach a check valve in the hydrogen off gas bypass passage." (Office action at p.5) Accordingly, Applicants submit that amended claim 1 is allowable over Kashiwagi. Claim 3, by virtue of its dependence on claim 1, should be allowable as well.

Applicants note that the remaining amendments to claim 1 are for clarity and do not pertain to the patentability thereof.

Claim Rejections under 35 U.S.C. § 103

The Office action rejects claims 4-7 under 35 U.S.C. § 103(a) as being unpatentable over the Kashiwagi reference in view of the Sugawara reference. For the reasons discussed above, Applicants respectfully submit that the Office action's rejection is improper because the

Sugawara reference is not prior art with respect to the pending claims. Accordingly, this rejection should be withdrawn.

New Claims 8-11

Applicants have added new claims 8-11. Independent claim 8 is based on claim 1 and canceled claims 2 and 6. Independent claim 10 is based on claim 1 and canceled claims 2 and 7. Dependent claims 9 and 11 are based on claim 3 and are dependent on claims 8 and 10, respectively. No new matter has been added.

Independent claims 8 and 10 both recite that a “back flow check device is provided at said hydrogen off-gas bypass passage for checking back flow of the hydrogen off-gas.” Accordingly, these claims are allowable for at least the same reasons as claim 1. Claims 9 and 11, by virtue of their dependence, should be allowable as well.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Serial No. : 10/691,785
Filed : October 23, 2003
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Attorney's Docket No.: 15682-004001 / OSP-14734

The petition fee in the amount of \$120.00 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 11/31/07

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